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AS

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/292,834 04/16/99 MORIGUCHI

K P99.0653

EXAMINER

IM71/0719

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HENDRICKSON, S	
ART UNIT	PAPER NUMBER

1754

18

DATE MAILED:

07/19/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

292854

Applicant(s)

Monguchi

Examiner

Hindiken

Group Art Unit

1784

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 7/5/01.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-9 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-9 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____.

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of References Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

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The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action. The request filed on 7/5/01 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/292834 is acceptable and a CPA has been established. An action on the CPA follows.

Claims 1-4 and 7-9 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Tamaki et al. (EP 762,522).

Tamaki teaches on pages 4 and 5 a graphitized material containing 0.1% boron and having a d spacing of .336 or less. Although the surface area and between-closure structures are not recited, the material of Tamaki is deemed to possess them since the d spacing, which represents basic microstructure, is the same as claimed.

Tamaki teaches in the examples a process in which mesophase pitch is carbonized and milled, then contacted with a boron source and heated to graphitization temperatures to make an electrode for lithium batteries.

As the process and utility is (essentially) the same, no differences in the product are seen. The examiner takes Official Notice that making powder is known to require pulverization. The process claims are sufficiently unclear to determine whether any differences in process steps actually exist.

Claims 1-4 and 7-9 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Takami et al. 6156457.

Takami teaches a boron-graphite electrode in columns 7 and 10, made by mixing a boron source with carbonized pitch. No difference is seen in the number of layer-planes, as the process of making is essentially the same as claimed.

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Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A) In claim 4, 'elevated speed' is subjective and unclear; as compared to what? If applicant means the speeds of the specification, these should be inserted into the claim.

B) In claims 1, 5 and 6, 'condition of scraping' is unclear; presumably a scraping step is meant.

C) In claims 4 and 5 for example, 'graphitization' is misspelled.

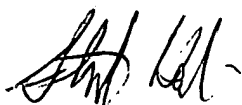
D) In claim 4, 'for graphitization' is unclear. Are these words unnecessary, or does applicant mean that the temperature is 1500 degrees *above the graphitization temperature*? Perhaps 'graphitizing at greater than 1500 ...' is meant.

E) In claim 5, the two heating steps appear redundant or contradictory. What is the order of steps? How many heating steps are there? Also, 'the ... carbon' is, strictly speaking, without antecedent basis.

Applicant's arguments filed 5/7/2001 have been fully considered but they are not persuasive.

The claims are awkwardly phrased and unclear, and not limited to the discharge capacity argued.

Any inquiry concerning this communication should be directed to examiner Hendrickson at telephone number (703) 308-2539.



Stuart Hendrickson
examiner Art Unit 1754